

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Case No. 09-10463
Hon. Robert H. Cleland
Mag. Michael Hluchaniuk

FOUR HUNDRED SEVENTY SEVEN (477)
FIREARMS ET AL.

Defendants *in Rem*

and

GABRIEL KISH, III, DEBORAH SUMMERS,
SHERRY HARNESS, GEOFFREY KISH, GABRIEL KISH IV,
BETTY SUMMERS AND TERROT MYLES.

Claimants.

and

GABRIEL KISH, III and DEBORAH SUMMERS.

Counter-Claimants.

PHILIP A. ROSS
Assistant United States Attorney
Attorney for Plaintiff
211 West Fort St., Suite 2001
Detroit, MI 48226-3220
(313) 226-9790
Philip.Ross@usdoj.gov
VA State Bar # 70269

CYNTHIA HEENAN (P 53664)
HUGH M. DAVIS (P12555)
Attorney for Claimants and Counter-Claimants
450 W. Fort St., Suite 200
Detroit, MI 48226
(313) 961-2255/Fax: (313) 961-5999
heenan@conlitpc.com; conlitpc@sbcglobal.net

STIPULATION TO DISMISS THE CLAIMANTS' COUNTERCLAIMS

Now come the parties, by and through their respective counsel, and stipulate and agree that Claimants' Counterclaims herein and the Plaintiff's Motion to Dismiss same shall be

dismissed without prejudice and without costs and without any preclusive effect on any future motion for return of property which claimants might file in their criminal cases pursuant to Fed. R. Crim. P. 41.

The parties acknowledge that the Stipulation shall not be construed as an admission of fault, negligence, and or liability on the part of the United States.

The parties stipulate that each side will bear its own attorneys fees and costs with respect to the Counter-Complaint and Plaintiff's Motion to Dismiss.

Respectfully submitted,

s/Philip A. Ross (with consent)

Philip A. Ross
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226-3220
(313) 226-9790
Philip.Ross@usdoj.gov
VA State Bar# 70269

Dated: October 30, 2009

s/ Cynthia Heenan

Cynthia Heenan
Attorney for Claimants Gabriel Kish III and
Deborah Summers
450 W. Fort, Suite 200
Detroit, MI 48226
(313) 961-2255 (P53664)
heenan@conlitpc.com
(P53664)

Dated: October 30, 2009

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EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FOUR HUNDRED SEVENTY SEVEN
(477) FIREARMS ET AL.

Civil Case No. 09-10463
Honorable Robert H. Cleland
Magistrate Michael Hluchaniuk

Defendants *in Rem*.

_____ /

ORDER TO DISMISS CLAIMANTS' COUNTERCLAIM

Upon the accompanying Stipulation to Dismiss the Claimants' Counterclaim, and it appearing that good cause for the Stipulation and Order Dismissing Claimants' Counterclaim, and the Court being otherwise fully advised in the premises, now, therefore;

IT IS HEREBY ORDERED that the Claimants' Counterclaims herein and the Plaintiff's Motion to Dismiss same shall be dismissed without prejudice and without costs and without any preclusive effect on any future motion for return of property which claimants might file in their criminal cases pursuant to Fed. R. Crim. P. 41.

IT IS FURTHER ORDERED that each side will bear its own attorneys fees and costs with respect to the Counter-Complaint and Plaintiff's Motion to Dismiss.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 5, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 5, 2009, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

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